



House of Representatives

File No. 743

General Assembly

February Session, 2014

(Reprint of File No. 628)

Substitute House Bill No. 5448
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 2, 2014

AN ACT CONCERNING THE DISCONTINUANCE OF HIGHWAYS AND PRIVATE WAYS BY MUNICIPALITIES.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 13a-49 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014, and*
3 *applicable to discontinuances or partial discontinuances considered or*
4 *approved on or after said date*):

5 (a) (1) The selectmen of any town may, subject to approval by a
6 majority vote at any regular or special town meeting, by a writing
7 signed by them, discontinue any highway or private way, or land
8 dedicated as such, in its entirety, or may discontinue any [portion] part
9 thereof or any property right of the town or public therein, except
10 when laid out by a court or the General Assembly, and except where
11 such highway is within a city, or within a borough having control of
12 highways within its limits.

13 (2) Whenever the selectmen of a town meet to act on the
14 discontinuance or partial discontinuance of a highway or private way,

15 or land dedicated as such, pursuant to approval by a majority vote at
16 any regular or special town meeting held on or after October 1, 2014,
17 the selectmen shall provide written notice of their meeting to each
18 owner of property that bounds the highway or private way, or land
19 dedicated as such. Such notice shall be provided by mailing a notice of
20 the date, time, place and subject of such meeting of the selectmen to
21 each such owner's address, as shown in the last-completed grand list
22 of the town, by first class mail, postmarked at least fifteen days prior to
23 the date of such meeting. If, in the opinion of the selectmen, the
24 boundary lines or limits of such highway or private way have become
25 lost or uncertain, the selectmen shall make reasonable efforts to
26 identify the boundary lines or limits of such highway or private way,
27 and shall give notice of such meeting to each owner of property that
28 bounds such identified boundary line or limit in accordance with this
29 subdivision. Such reasonable efforts need not include an examination
30 of title or abstracts thereof or a land survey.

31 (3) If the selectmen vote to approve such discontinuance or partial
32 discontinuance, pursuant to approval by a majority vote at any regular
33 or special town meeting held on or after October 1, 2014, the selectmen
34 shall cause to be recorded on the land records of the town a notice of
35 such approval, which notice shall include (A) a listing of each parcel of
36 property identified pursuant to subdivision (2) of this subsection to
37 bound (i) such highway or private way, or land dedicated as such, or
38 (ii) such identified boundary line or limit, and (B) the name of the
39 owner of each such parcel of property as shown in the last-completed
40 grand list of the town.

41 (4) [Any] (A) Except as provided in subparagraph (B) of this
42 subdivision, any person aggrieved by a discontinuance or partial
43 discontinuance under this subsection may [be relieved by application]
44 apply to the [Superior Court , to be made and proceeded with in the
45 manner prescribed in section 13a-62] superior court for the judicial
46 district in which such town is located.

47 (B) Any owner of property who is aggrieved by the failure to

48 receive the meeting notice required under subdivision (2) of this
 49 subsection may apply to the superior court not later than twenty-four
 50 months after notice of approval is recorded on the land records of the
 51 town pursuant to subdivision (3) of this subsection. No discontinuance
 52 or partial discontinuance shall be invalidated on the basis of the
 53 selectmen's failure to provide the meeting notice required under
 54 subdivision (2) of this subsection to an owner of property if the town
 55 establishes that (i) a meeting notice that meets the requirements of
 56 subdivision (2) of this subsection was mailed to such owner's address,
 57 as shown in the applicable last-completed grand list of the town, or (ii)
 58 the selectmen made a good faith effort to identify the parcels of
 59 property that bound the highway or private way, or land dedicated as
 60 such, or such identified boundary line or limit, in accordance with
 61 subdivision (2) of this subsection, and mailed notice to each owner of
 62 such identified parcels of property, as shown in the applicable last-
 63 completed grand list of the town.

64 (b) Whenever a petition has been presented to the selectmen for
 65 such discontinuance or partial discontinuance of any land dedicated as
 66 a highway or private way but which has not been actually used,
 67 worked or accepted [,] as a highway [,] by the town, and such
 68 discontinuance or partial discontinuance has not been made by the
 69 selectmen and approved by the town within twelve months after such
 70 presentation, any person aggrieved may [be relieved by application]
 71 apply to said court [, to be made and proceeded with] in the manner
 72 prescribed in section 13a-62.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014, and applicable to discontinuances or partial discontinuances considered or approved on or after said date</i>	13a-49

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 15 \$	FY 16 \$
Various Municipalities	Cost	Minimal	Minimal

Explanation

The bill requires town selectmen to notify each property owner adjoining all or part of a highway or private way when proposing to discontinue such highway or private way.

There is a cost, expected to be minimal, associated with printing and mailing such notifications to property owners.

House "A" strikes the underlying bill and results in the above identified fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5448 (as amended by House "A")******AN ACT CONCERNING THE DISCONTINUANCE OF HIGHWAYS AND PRIVATE WAYS BY MUNICIPALITIES.*****SUMMARY:**

This bill requires town selectmen to notify owners of abutting properties when the selectmen meet to act on the discontinuance of all or part of a highway, private way, or land dedicated for this use. It requires the selectmen to record certain information on the land records if, by a majority vote, they approve the discontinuance. These provisions apply to any regular or special town meeting held on or after October 1, 2014 where the selectmen meet regarding a discontinuance.

By law, with limited exceptions, selectmen can discontinue all or part of a highway, private way, or land dedicated to these uses. The discontinuance is subject to approval by majority vote at a regular or special town meeting.

The bill allows any aggrieved property owner who does not receive the required meeting notice to apply to the Superior Court for relief within 24 months after the approval notice is recorded on the town's land records. Under existing law, any person aggrieved by the discontinuance or partial discontinuance may apply to the Superior Court for the judicial district in which the town is located.

Lastly, the bill makes technical changes.

*House Amendment "A" replaces the original file with similar provisions. It also (1) specifies that acting on or approving a discontinuance requires approval by a majority vote, (2) provides judicial relief for a property owner who does not receive the required

meeting notice, and (3) makes minor technical changes.

EFFECTIVE DATE: October 1, 2014, and applicable to discontinuances or partial discontinuances considered or approved on or after that date.

MEETING TO ACT ON A DISCONTINUACE

Under the bill, starting October 1, 2014, whenever the selectmen, with approval by a majority vote, meet to act on a discontinuance, they must send written notification of their meeting to the owner of each property that bounds the highway, private way, or dedicated land. The notice must (1) include the date, time, place, and subject of the meeting and (2) be sent by first class mail at least 15 days before the meeting to each property owner's address, as shown on the most recent grand list (see BACKGROUND). If the selectmen believe that the boundary lines of a highway or private way have become lost or are uncertain, they must make reasonable efforts to identify the lines and notify the owners using these lines. The reasonable efforts do not have to include (1) examining titles or abstracts or (2) a land survey.

RECORDING AN APPROVED DISCONTINUANCE

If the selectmen approve a discontinuance by a majority vote at a meeting on or after October 1, 2014, the bill requires them to cause a notice of the approval to be recorded in the land records. The approval notice must include (1) a listing of each parcel that bounds the affected highway, private way, or dedicated land or the lines identified by the selectmen and (2) the name of each owner of the affected parcels, as shown in the most recent grand list.

JUDICIAL RELIEF

The bill allows any aggrieved property owner who does not receive the required meeting notice to apply to the Superior Court for relief within 24 months after the approval notice is recorded on the town's land records. Under the bill, the discontinuance or partial discontinuance may not be invalidated on the basis of the selectmen's failure to provide the required meeting notice if the town establishes

that (1) the notice was mailed to the owner's address as shown on the most recent grand list or (2) the selectmen (a) made a good-faith effort to identify the parcels of property that bound the highway, private way, or dedicated land, or the identified boundary lines and (b) mailed notice to each owner, as shown on the most recent grand list.

BACKGROUND

Grand List

The grand list is a listing of all real estate parcels within a municipality. The listing generally includes (1) property owner's address, (2) property location, and (3) appraised value.

Related Law

The law gives property owners bounding a partially or completely discontinued or abandoned highway a right-of-way to the nearest or most accessible highway (CGS § 13a-55).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 35 Nay 0 (04/01/2014)

Planning and Development Committee

Joint Favorable

Yea 19 Nay 1 (04/25/2014)